

**IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF TEXAS**

**TYLER DIVISION**

**DATE:** April 26, 2010

**JUDGE**  
LEONARD DAVIS

**COURT REPORTER**  
Judy Werlinger

**Law Clerks:** Natalie Alfaro

<b>SOVERAIN SOFTWARE, LLC</b>  <b>vs.</b>  <b>NEWEGG, INC. LTD</b>	<b>CIVIL ACTION NO: 6:07-CV-511</b>  <b>Jury Trial - Day 1</b>
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<b>ATTORNEYS FOR PLAINTIFF</b>	<b>ATTORNEYS FOR DEFENDANTS</b>
Kenneth Adamo (Jones Day) Tom Giannetti (Jones Day) Barry Satine (Jones Day) Clark Craddock (Jones Day) Carl Roth (Roth Firm) Michael Smith (Siebman Reynolds) Katherine Wolanyk - Client Representative	Dick Sayles (Sayles Werbner) Mark Strachan (Sayles Werbner) Kent Baldauf (The Webb Lawfirm) Dave Hanson (The Webb Lawfirm) Claudia Frost (Pillsbury Winthrop Shaw Pittman) Lee Cheng (Newegg) Mira Wolff (Newegg)

On this day, came the parties by their attorneys and the following proceedings were had:

OPEN: 9:00 am

ADJOURN:

9:00 am	<b>Pretrial matters outside presence of jury.</b>
9:00 am	Mr. Satine addressed the Court on Bench Memo on Plaintiff's Exhibit 13 and the use of the slide from Newegg presents an issue. Mr. Satine tendered the Bench Memo to the Court. Mr. Satine presented argument on the issue.
	Court addressed the parties on bench memos and keeping the jury waiting. Mr. Baldauf responded and tendered to the Court a responsive. <b>Court grants Motion in Limine.</b>
	Mr. Baldauf addressed the Court on a slide the plaintiff is going to use in opening. Mr. Adamo responded. Mr. Baldauf replied. <b>Court grants the objection.</b>
	Court asked for the jury to be brought in.
	<b>Jury entered and seated in the courtroom.</b>
9:10 am.	Court welcomed the jury back and outlined the Court's schedule.

**DAVID J. MALAND, CLERK**

**FILED: 4.26.2010**

BY: Rosa L. Ferguson , Courtroom Deputy

	Court gave the jury some preliminary instructions.
10:07 am	Court in recess until 10:25 a.m.
10:25 am	Trial resumed. <b>Jury not present in the courtroom.</b>
	Court addressed the parties on the license issue. Mr. Sayles responded. Mr. Adamo responded. Mr. Baldauf addressed the Court on commercial success. Mr. Adamo responded as to how plaintiff is going to reference. Mr. Baldauf maintains the objection. Court will allow plaintiff to use the slide in question. Court asked for the jury to be brought in.
	<b>Jury seated in the courtroom.</b>
10:30 am	Mr. Adamo presented opening statement to the jury on behalf of the Sovereign.
11:00 am	Mr. Sayles presented opening statement to the jury on behalf of Newegg.
11:30 am	Court addressed the jury . Court addressed the parties about the Rule being invoked. Mr. Sayles invoked the rule.
	Court will swear in all of the witnesses present, and asked witnesses to stand and state their names.
	<b>WITNESSES SWORN:</b> <b>Katharine Wolanyk, Lee Cheng, Jack Grimes, Michael Shamos, George Winfield Treese, James Nawrocki, Edward Titter, and James Wu</b> stood, stated their names and were sworn by the Clerk. Court explained the Rule to the Witnesses.
	Court addressed the Jury and parties regarding exhibits. Mr. Adamo offered <b>Plaintiff's Exhibit List 1-A</b> , and without objection, the exhibits listed therein are admitted. Mr. Adamo also has a list of the descriptions of those exhibits, and list marked as <b>Plaintiff's Exhibit List 1-B</b> . (Note: Exhibits admitted on Plaintiff's Exhibit List 1-A and 1-B are as follows: <b>Plaintiff's Exhibit #1-10, 12, 14, 15, 18-20, 24-29, 32, 33, 36-38, 40-43, 45, 47, 51, 52, 55-61, 62A, 62B, 63-144, 147, 149, 158, 160-178, 180, 181, 184-227, 230-234, 239-241, 243, 245-248</b> ).
	Mr. Sayles offered <b>Defendant's Exhibit List 1</b> , and without objection, the exhibits listed therein are admitted. (Note: Exhibits admitted on Defendant's Exhibit List 1 are as follows: <b>Defendant's Exhibit #2-9, 11, 12, 14-16, 20-22, 25, 27, 31, 34, 35, 37, 48, 51-54, 56-66, 69, 71, 74, 78, 81, 83, 85, 88, 91, 94, 96, 100, 103, 106, 109, 112, 116-118, 137, 138, 140, 141, 146, 172, 175, 177, 192-218, 220-248, 250, 252-256, 268-270, 272-276, 278, 283-285, 287, 295, 296, 298, 300, 301, 303-308, 311-315, 341-343, 345, 349, 352-354, 357-359, 363-420, 439, 440, 443, 445-448, 486, 488-506, 515</b> )
	Mr. Adamo addressed the Court on a stipulation regarding not waiving objections on exhibits for purposes of appeal. Court will take up that matter later.
	Court addressed the jury and will give the jury one hour and 10 minutes for lunch.
	<b>Court excused the jury until 12:45 pm.</b>
	Mr. Adamo tendered to the Court a stipulation. Court asked for clarification on the stipulation. Court will not will not waive an objection to exhibits. Court would like parties to object during the course of trial. Court and parties discussed the stipulation. Parties will visit further on it.
	Mr. Adamo addressed the Court on the preferred matter to bring up issues as they may come up during the course of trial. Court explained the procedures on briefing and notification to the Court. Mr. Adamo addressed the Court on Dr. Grimes.

11:40 am	Court in recess until 12:45 pm.
12:45 pm.	<b>Jury seated in the courtroom.</b>
	Mr. Adamo called <b>DR. JACK GRIMES</b> to the witness stand. Witness previously sworn.
	Direct examination of Dr. Grimes by Mr. Adamo.
2:50 pm	Court in recess until 3:10 pm
3:10 pm	Trial resumed. Jury seated in the courtroom.
	Direct examination of Dr. Grimes by Mr. Adamo continued.
4:45 pm	Mr. Adamo passed the witness.
	<b>Court addressed the Jury and excused them for the evening.</b>
	Court addressed the parties. Plaintiff has used 3 hours and 35 minutes and the Defendant has not used any time. Court and parties discussed timing and scheduling.
	Mr. Sayles addressed the Court on deposition testimony and parties have worked together, but not all objections resolved. Mr. Sayles will tender those to the Court tomorrow.
	Mr. Sayles inquired regarding stipulations and parties requesting that they be included in the charge instead of reading them to the jury. Court asked that they be provided in writing.
4:50 pm	There being nothing further, Court adjourned for the day.